

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN DELANO LAWSON, JR.,

Plaintiff,

v.

KILOLO KIJAKAZI, Commissioner of Social
Security,

Defendant.

Case No.: 1:21-cv-01718-BAM

**ORDER REGARDING PLAINTIFF’S SOCIAL
SECURITY COMPLAINT**

INTRODUCTION

Plaintiff John Delano Lawson, Jr., (“Plaintiff”) seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his applications for disability insurance benefits under Title II of the Social Security Act. The matter is currently before the Court on the parties’ briefs, which were submitted, without oral argument, to Magistrate Judge Barbara A. McAuliffe.¹

Plaintiff presents the issue that the Administrative Law judge (“ALJ”) erred in evaluating the medical source opinion of Dr. Knapp. Having considered the parties’ briefs, along with the entire

¹ The parties consented to have a United States Magistrate Judge conduct all proceedings in this case, including entry of final judgment, pursuant to 28 U.S.C. § 636(c). (Doc. Nos. 9, 16, 17.)

1 record in this case, the Court finds that the decision of the Administrative Law Judge (“ALJ”) is
2 supported by substantial evidence in the record as a whole and is based on proper legal standards.
3 Accordingly, the Court affirms the agency’s determination to deny benefits.

4 **Medical Records and Prior Proceedings**

5 The relevant medical records and hearing testimony was reviewed by the Court and will be
6 referenced below as necessary to this Court’s decision.

7 **The ALJ’s Decision**

8 Using the Social Security Administration’s five-step sequential evaluation process, the ALJ
9 determined that Plaintiff was not disabled under the Social Security Act. AR 15-23. Specifically, the
10 ALJ found that Plaintiff had not engaged in substantial gainful activity since December 5, 2018, the
11 alleged onset date. AR 18. The ALJ identified the following severe impairments: history of left
12 shoulder impingement and rotator cuff arthropathy, and obesity. AR 18. The ALJ determined that the
13 severity of Plaintiff’s impairments did not meet or equal any of the listed impairments. AR 18-19.

14 Based on a review of the entire record, the ALJ found that Plaintiff retained the residual
15 functional capacity (“RFC”) to perform light exertion except he can occasionally reach overhead with
16 the left upper extremity, and he can never climb ladders, ropes, or scaffolds. AR 19-22. With this
17 RFC, the ALJ found that Plaintiff could perform past relevant work as a security guard (DOT
18 372667038) light as generally performed, heavy as actually performed, SVP3. AR 22. The ALJ
19 therefore concluded that Plaintiff was not under a disability, as defined in the Social Security Act,
20 from December 5, 2018, through the date of this decision. AR 23.

21 **SCOPE OF REVIEW**

22 Congress has provided a limited scope of judicial review of the Commissioner’s decision to
23 deny benefits under the Act. In reviewing findings of fact with respect to such determinations, this
24 Court must determine whether the decision of the Commissioner is supported by substantial evidence.
25 42 U.S.C. § 405(g). Substantial evidence means “more than a mere scintilla,” *Richardson v. Perales*,
26 402 U.S. 389, 402 (1971), but less than a preponderance. *Sorenson v. Weinberger*, 514 F.2d 1112,
27 1119, n. 10 (9th Cir. 1975). It is “such relevant evidence as a reasonable mind might accept as
28 adequate to support a conclusion.” *Richardson*, 402 U.S. at 401. The record as a whole must be

considered, weighing both the evidence that supports and the evidence that detracts from the Commissioner's conclusion. *Jones v. Heckler*, 760 F.2d 993, 995 (9th Cir. 1985). In weighing the evidence and making findings, the Commissioner must apply the proper legal standards. *E.g.*, *Burkhart v. Bowen*, 856 F.2d 1335, 1338 (9th Cir. 1988). This Court must uphold the Commissioner's determination that the claimant is not disabled if the Commissioner applied the proper legal standards, and if the Commissioner's findings are supported by substantial evidence. *See Sanchez v. Sec'y of Health and Human Servs.*, 812 F.2d 509, 510 (9th Cir. 1987).

REVIEW

In order to qualify for benefits, a claimant must establish that he or she is unable to engage in substantial gainful activity due to a medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than twelve months. 42 U.S.C. § 1382c(a)(3)(A). A claimant must show that he or she has a physical or mental impairment of such severity that he or she is not only unable to do his or her previous work, but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. *Quang Van Han v. Bowen*, 882 F.2d 1453, 1456 (9th Cir. 1989). The burden is on the claimant to establish disability. *Terry v. Sullivan*, 903 F.2d 1273, 1275 (9th Cir. 1990).

DISCUSSION²

Plaintiff argues that the ALJ's RFC determination was not supported by substantial evidence due to his failure to properly evaluate the opinion of treating physician, Dr. Knapp. (Doc. 11 at 11.)

As an initial matter, the parties appear to agree that because Plaintiff applied for benefits after March 27, 2017, his claim is governed by the agency's new regulations concerning how an ALJ must evaluate medical opinions. 20 C.F.R. § 404.1520c; (Docs. 11 at 11-17; 12 at 3-4.) Under the new regulations, the Commissioner evaluates the persuasiveness of the medical opinions based on the following factors: (1) supportability; (2) consistency; (3) relationship with the claimant; (4)

² The parties are advised that this Court has carefully reviewed and considered all of the briefs, including arguments, points and authorities, declarations, and/or exhibits. Any omission of a reference to any specific argument or brief is not to be construed that the Court did not consider the argument or brief.

1 specialization; and (5) other factors, such as “evidence showing a medical source has familiarity with
 2 the other evidence in the claim or an understanding of our disability program’s policies and
 3 evidentiary requirements.” 20 C.F.R. § 404.1520c(c)(3)(1)-(5). Supportability and consistency are the
 4 most important factors. 20 C.F.R. § 404.1520c(b)(2).

5 Ninth Circuit case law preceding the new regulations afforded deference to the medical
 6 opinions of treating and examining physicians. Indeed, prior to the current regulations, the Ninth
 7 Circuit required ALJs to provide clear and convincing or specific and legitimate reasons for rejecting
 8 the medical opinions of treating or examining physicians. These standards of articulation no longer
 9 apply in light of the new regulations. As recently explained by the Ninth Circuit in *Woods v. Kijakazi*,
 10 32 F.4th 785 (9th Cir. 2022):

11 The revised social security regulations are clearly irreconcilable with our caselaw
 12 according special deference to the opinions of treating and examining physicians on
 13 account of their relationship with the claimant. *See* 20 C.F.R. § 404.1520c(a) (“We will not
 14 defer or give any specific evidentiary weight, including controlling weight, to any medical
 15 opinion(s) ..., including those from your medical sources.”). Our requirement that ALJs
 16 provide “specific and legitimate reasons” for rejecting a treating or examining doctor’s
 17 opinion, which stems from the special weight given to such opinions, *see Murray*, 722 F.2d
 18 at 501–02, is likewise incompatible with the revised regulations. Insisting that ALJs
 19 provide a more robust explanation when discrediting evidence from certain sources
 20 necessarily favors the evidence from those sources—contrary to the revised regulations.

21 (*Id.* at 792.) The Ninth Circuit clarified that “under the new regulations, an ALJ cannot reject an
 22 examining or treating doctor’s opinion as unsupported or inconsistent without providing an
 23 explanation supported by substantial evidence.” *Id.* “The agency must ‘articulate ... how persuasive’
 24 it finds ‘all of the medical opinions’ from each doctor or other source, 20 C.F.R. § 404.1520c(b), and
 25 ‘explain how [it] considered the supportability and consistency factors’ in reaching these findings, *id.*
 26 § 404.1520c(b)(2).” *Id.*

27 As noted, Plaintiff argues that the ALJ improperly rejected the opinion of treating physician,
 28 Dr. Knapp. In so arguing, Plaintiff claims that the ALJ mischaracterized Dr. Knapp’s opinion by
 finding it unpersuasive because it was inconsistent with the medical evidence, specifically as to the
 impact of Plaintiff’s obesity. (Doc. 11 at 12.)

1 Dr. Knapp provided treatment records for Plaintiff from December 2018 to September 2020.
2 AR 426, 452. In June 2019, Dr. Knapp diagnosed Plaintiff with shoulder pain and rotator cuff tear. AR
3 423. Dr. Knapp noted that Plaintiff's orthopedist did not recommend surgery and that Plaintiff was
4 unable to do his regular work duties. AR 423-24. In September 2019, Dr. Knapp again saw Plaintiff
5 for shoulder pain and found limited range of motion. AR 421. Dr. Knapp also noted that Plaintiff's
6 shoulder and knee issues made him a likely candidate for permanent disability. AR 421-22. In March
7 2020, Dr. Knapp found that Plaintiff's shoulder continued to disable him, and such disability would
8 likely be permanent based on the shoulder's non-surgical status. AR 457.

9 In May 2020, Dr. Knapp filled out a medical source statement. AR 435. Dr. Knapp stated
10 Plaintiff was diagnosed with a left shoulder rotator cuff tear, right knee arthritis, and left ankle pain.
11 AR 435. Dr. Knapp opined that Plaintiff has reduced range of motion in his left shoulder, tenderness,
12 muscle weakness, muscle atrophy, and impaired sleep. AR 435. Dr. Knapp also opined Plaintiff had
13 abnormal gait and joint stiffness. AR 436. Dr. Knapp opined that Plaintiff's inflammation and/or
14 deformity was severe and caused chronic pain syndrome in his shoulder, knee, and ankle, which was
15 also severe. AR 436-37. Dr. Knapp found that walking, lifting, and standing aggravated and/or
16 increased the severity of Plaintiff's condition. AR 437. Dr. Knapp also opined that depression and
17 anxiety contribute to Plaintiff's physical condition. AR 438. Finally, Dr. Knapp opined that Plaintiff
18 could sit and stand/walk no more than one hour in an eight-hour workday, could occasionally lift/carry
19 up to ten pounds but could never lift/carry more than ten pounds, could not repeatedly push or pull
20 with his left and right hands, could occasionally bend but never squat, crawl, climb, or reach above
21 shoulder level. AR 439-40. Dr. Knapp opined that Plaintiff was completely restricted from unprotected
22 heights and being around moving machinery, could not perform a job with a sit/stand and/or walk
23 option eight hours per day without lying down, would be severely limited in performing full time
24 employment, would require frequent breaks even in a light/sedentary job, and would frequently miss
25 days. AR 441.

26 The ALJ found this opinion unpersuasive, reasoning as follows:

27 Dr. Knapp supported his opinions with his narrative comments, but they are not generally
28 consistent with the remainder of the medical evidence. The evidence does not support the

1 extreme limitations advanced. The claimant's shoulder impairment has not progressed as
2 expected, and he continues to experience deficits in range of motion and occasionally
3 strength, and this affects his ability to reach more than occasionally. However, he has been
4 advised to only make lifestyle changes to lose weight, and no clinician has suggested that
5 his obesity would impact his ability to perform postural tasks to this extent suggested by
6 Dr. Knapp. Additionally, while it is reasonable that the claimant's obesity and pain may
7 somewhat limit his ability to stand and walk, the claimant has no impairment in sitting
8 supported by the record. Therefore, the undersigned finds this opinion not generally
9 persuasive.

10 AR 22.

11 The Court finds that the ALJ properly evaluated Dr. Knapp's opinion under the new
12 regulations. First, the ALJ found that Dr. Knapp's opinion was supported by his own "narrative
13 comments." *Id.* This reason expressly invokes the supportability factor, which is one of the key factors
14 an ALJ must consider when determining the persuasiveness of a medical opinion. 20 C.F.R. §
15 416.920c(b)(2). The more relevant objective evidence and supporting explanations that support a
16 medical opinion, the more persuasive that medical opinion is. 20 C.F.R. § 416.920c(c)(1). Here, Dr.
17 Knapp's medical source statement opinion largely consists of checked mark boxes. AR 435-41. Dr.
18 Knapp's treatment notes support limitations in ambulation and standing due to Plaintiff's knee
19 replacement and ankle injury, which support the standing/walking limitations posited in Dr. Knapp's
20 medical source statement. AR 454. However, they did not provide support for the more extreme sitting
21 limitation.

22 Next, the ALJ found that Dr. Knapp's opinion was inconsistent with the objective medical
23 record. The ALJ's reasoning invokes the consistency factor, which means the extent to which a
24 medical opinion is "consistent ... with the evidence from other medical sources and nonmedical
25 sources in the claim" 20 C.F.R. § 416.920c(c)(2). The Court agrees with the ALJ's determination that
26 Dr. Knapp's opinion was not consistent with the other medical evidence. The ALJ discusses several
27 other medical sources and Plaintiff's own testimony in her opinion which do not opine the same
28 limitations as Dr. Knapp.

State agency examiner Dr. Rugama, found that Plaintiff's statements about the intensity,
persistence, and function were not supported by the medical evidence. AR 66. Dr. Rugama also found

1 that only mild to moderate limitations were warranted. AR 66. Dr. Rugama opined that Plaintiff could
2 occasionally lift/carry up to twenty pounds, could stand/walk and sit for about six hours in an eight-
3 hour workday, and had limited range of motion in his shoulder. AR 66-67. Dr. Rugama concluded that
4 Plaintiff could perform light work. AR 71.

5 Workman's Compensation examiner Jeff Armstrong, P.A. opined that Plaintiff could
6 stand/walk no more than six hours in an eight-hour workday. AR 346. Armstrong, P.A., did not find
7 limitations to sitting. AR 346. The opinion was signed off by Dr. Engelmann. AR 347.

8 Plaintiff testified that he was able to do his own grocery shopping, laundry, and other
9 household chores. AR 39. Plaintiff also testified that his pain can be managed with medication. AR 41.
10 Plaintiff testified he was able to stand for thirty-to-forty-minutes before needing to sit. AR 42. On
11 April 26, 2022, Plaintiff also stated he could sit for three hours, stand for thirty-minutes, and walk 1/8
12 of a mile in a pain questionnaire. AR 191.

13 The remaining medical opinions in the record and Plaintiff's testimony are consistent with the
14 ALJ's RFC determination. Both the medical statements and Plaintiff's testimony find significantly less
15 limitations in sitting, if any. For example, Physician's assistant Armstrong found no limitation and
16 Plaintiff stated he could sit for up to three hours at a time. Thus, Dr. Knapp's opinion that Plaintiff
17 could only sit for one hour was not consistent with the medical evidence.

18 Plaintiff argues that the ALJ's reference to obesity in evaluating Dr. Knapp's opinion is the
19 only basis the ALJ gives for finding the opinion unpersuasive. However, the ALJ thoroughly discusses
20 Dr. Knapp's opinions regarding Plaintiff's knee, shoulder, and ankle injuries. AR 22. While the ALJ
21 does reference obesity in relation to Plaintiff's ability to perform postural tasks, it does not appear that
22 obesity is the only impairment that contributed to the ALJ's assessment. Further, The ALJ found that
23 obesity was a severe impairment and therefore is required to consider obesity in conjunction with other
24 related conditions. AR 18. As a general rule, an ALJ must determine the effect of claimants' obesity on
25 their other impairments and ability to work. *See Celaya v. Halter*, 332 F.3d 1177, 1182 (9th Cir.
26 2003); *see also* SSR 02-1p, 2002 WL 34686281 (Sept. 12, 2002) (requiring ALJ to consider effects of
27 obesity at several points in five-step sequential evaluation). It appears to the Court that while the
28 ALJ's language could suggest obesity was the main impairment the ALJ considered when determining

the opinion was unpersuasive, that was not the case. Rather, it appears the ALJ was simply considering obesity in her analysis. There is a thorough discussion of Plaintiff's shoulder, knee, and ankle impairments just before the ALJ states the opinion was unpersuasive. This makes it clear to the Court that obesity was not the sole factor in the ALJ's determination.

Further, the Court finds that the decision to discredit the limitations opined by Dr. Knapp was supported by substantial evidence. "[U]nder the new regulations, 'the decision to discredit any medical opinion, must simply be supported by substantial evidence.'" *Sexton v. Comm'r of Soc. Sec.* No. 1:21-cv-00379-EPG, 2022 WL 1471083, at *2 (E.D. Cal. May 10, 2022) (quoting *Woods*, 2022 WL 1195334, at *1). As previously noted, substantial evidence is "relevant evidence which, considering the record as a whole, a reasonable person might accept as adequate to support a conclusion." *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). As discussed above, the medical evidence and Plaintiff's own testimony are not consistent with Dr. Knapp's opined limitations.

Based on the foregoing, the Court finds that the ALJ's decision to deem Dr. Knapp's opinion unpersuasive is supported by substantial evidence after consideration of the factors of supportability and consistency.

CONCLUSION

Based on the foregoing, the Court finds that the ALJ's decision is supported by substantial evidence in the record as a whole and is based on proper legal standards. Accordingly, this Court **DENIES** Plaintiff's appeal from the administrative decision of the Commissioner of Social Security. The Clerk of this Court is **DIRECTED** to enter judgment in favor of Defendant Kilolo Kijakazi, Acting Commissioner of Social Security, and against Plaintiff John Delano Lawson, Jr.

IT IS SO ORDERED.

Dated: September 9, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE